

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPOINTING  
STEVE PANGELINAN AS ACTING CITY MANAGER AND APPROVING THE AMENDED  
EMPLOYMENT AGREEMENT**

**WHEREAS**, Government Code Section 21221(g) permits the City Council to appoint a CalPERS retiree to a position found by the City Council to be available because of a leave of absence granted to a person on payroll status for a period not to exceed one year and found by the City Council to require specialized skills, and Government Code Section 7522.56 provides that such appointment will not subject the retired person to reinstatement from retirement or loss of benefits so long as it does not exceed 960 hours in a fiscal year; and

**WHEREAS**, the City Council finds that the position of City Manager is available because of a leave of absence granted to the City Manager on May 19, 2017, and such position requires specialized skills; and

**WHEREAS**, to ensure the efficient continued operation of the City, the City Council desires to retain the services of Steve Pangelinan, a retired member of CalPERS, to serve as acting City Manager, effective May 30, 2017; and

**WHEREAS**, Steve Pangelinan has many years of experience in law enforcement with an extensive history in managing City affairs, including having previously served as Chief of Police with the City and currently serving as Interim Chief of Police; and

**WHEREAS**, in compliance with Government Code Section 7522.56(f), the Milpitas City Council must provide CalPERS this certification resolution when hiring a retiree before 180 days have passed since his or her retirement date; and

**WHEREAS**, Steve Pangelinan retired from the City of Milpitas in the position of Police Chief effective December 30, 2016; and

**WHEREAS**, Section 7522.56(f) requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is June 29, 2017, without this certification resolution; and

**WHEREAS**, Section 7522.56(f) provides that this exception to the 180-day wait period shall not apply if the retiree accepts any retirement-related incentive; and

**WHEREAS**, the Milpitas City Council, the City of Milpitas, and Steve Pangelinan certify that Steve Pangelinan has not and will not receive a Golden Handshake or any other retirement-related incentive; and

**WHEREAS**, due to his specialized skills and experience, the Milpitas City Council hereby desires to appoint Steve Pangelinan, a retired annuitant, to the position of acting City Manager, a position found by the Milpitas City Council to be available because of a leave of absence granted to the City Manager, in accordance with Government Code Section 21221(g), effective May 30, 2017, and that such appointment is critically needed to fill the position of City Manager in order to continue operations of the City in the City Manager's absence; and

**WHEREAS**, it is understood by the City and Steve Pangelinan that he will continue to serve as Interim Chief of Police under a previous appointment by the City pending the recruitment for a permanent appointment; and

**WHEREAS**, it is understood by the City and Steve Pangelinan that the combined total hours to be served by Steve Pangelinan in any fiscal year, for all positions and for all CalPERS employers combined, shall not exceed the 960-hour limitation set forth in California Government Code Section 7522.56(d); and

**WHEREAS**, this Government Code Section 21221(g) appointment shall not exceed one year and therefore will end May 29, 2018, or, if earlier, the date the City Manager returns from leave or the date that this appointment is terminated by the City or Steve Pangelinan; and

**WHEREAS**, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

**WHEREAS**, the hourly rate to be paid to Steve Pangelinan for the position of acting City Manager is \$115.38, which is not less than the minimum or in excess of the maximum hourly rate paid to other employees performing comparable duties; and

**WHEREAS**, Steve Pangelinan has not and will not receive any other benefit, incentive compensation in lieu of benefit or any other form of compensation in addition to this hourly pay rate; and

**WHEREAS**, the City Council has reviewed a proposed amended employment agreement by and between Steve Pangelinan and the City.

**NOW, THEREFORE**, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

**Section 1.** All facts set forth in the background section of this Resolution are true and correct.

**Section 2.** Steven Pangelinan has the specialized skills needed to perform the work required of the City Manager position for the period during which the City Manager is on leave, not to exceed one year.

**Section 3.** The City Council hereby appoints Steve Pangelinan as acting City Manager effective May 30, 2017 pursuant to the authority provided under Government Code Section 21221(g) and 7522.56, for the period during which the City Manager is on leave from the City, to provide the critically-needed, specialized skills necessary to manage the City.

**Section 4.** The City Council hereby certifies the nature of the appointment of Steve Pangelinan as described herein and detailed in the attached amended employment agreement and that this appointment is necessary to fill the critically needed position of City Manager by May 30, 2017 because the current City Manager is on administrative leave.

**Section 5.** The amended employment agreement with Steve Pangelinan, a copy of which is on file with the City Clerk, is approved by the City Council, effective May 30, 2017.

**Section 6.** The Mayor is authorized to execute said agreement on behalf of the City, with such technical amendments as may be deemed appropriate by the City Attorney.

[Signatures Follow on Next Page]

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Rich Tran, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney